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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,435

11/30/2006

Serge Creutz

SN141 PCT 1

9475

137 7590 12/29/2008
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EXAMINER

OJURONGBE, OLATUNDE S

ART UNIT

PAPER NUMBER

1796

NOTIFICATION DATE

DELIVERY MODE

12/29/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/581,435	Applicant(s) CREUTZ ET AL.	
	Examiner OLATUNDE S. OJURONGBE	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 AND 11-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on 09/15/2008 has been entered. Claims 1-7 and 11-21 remain pending in the application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claim 18** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claim recites “.... A mixture of glycerol tripalmitate and a glycerol trimester of a saturated carboxylic acid having 20 or 22 carbon atoms, or a mixture of ethylene glycol distearate and a glycerol triester of a saturated carboxylic acid having 20 or 22 carbon atoms”. This limitation cannot be supported by the application, as originally filed.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 1-7 and 11-21** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 11 and 12 recite "..... selected from (i) a glycerol triester or a diester of a glycol which is esterified by carboxylate groups each having 7 to 36 carbon atoms and at least 90% of the hydroxyl groups of the glycerol triester or diester of glycol are esterified, (ii) an ester of pentaerythritol or an ester of sorbitol esterified by carboxylate groups each having 7 to 36 carbon atoms and at least 70% of the hydroxyl groups of the ester of pentaerythritol or ester of sorbitol are esterified, or (iii) mixtures of non-polar organic polyol esters having melting points of 35 to 100°C". This is an improper Markush-type claim limitation. Dependent claims 2-7 and 13-21 are rejected for the same reason.

Each of claims 17-21 further recites improper Markush-type claim limitation.

6. Claims 20 and 21 recites the limitation "The foam control composition according to claim 19, wherein the component which contains groups more polar than the groups present in the non-polar organic polyol ester" In lines 1-3 of each claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S.Code not included in this action can be found in a prior office action.

8. **Claims 1-4, 6-7 and 11-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Creutz et al (WO2004/018073, US 7,407,991** is used for ease of citation) in view of **Hart (US 5,800,738)**.

Regarding **claim 1**, Creutz et al teaches a foam control composition which comprises:

(i) a non -polar component which is preferably a polyol ester, most preferably a polyol substantially fully esterified by carboxylate groups each having 7 to 36 carbon atoms; the polyol ester is preferably a glycerol triester or an ester of a higher polyol such as pentaerythritol or sorbitol, but can be a diester of a glycol such as ethylene glycol.

Examples of the polyol ester includes glycerol tristearate (col.4, line 57-col.5, line 17);

(ii) hydrophobic filler, with silica which is made hydrophobic being a preferred filler (col.7, lines 1-5), (iii) an organosilicon resin, which is generally a non-linear siloxane resin, which preferably consists of M groups and Q groups (col.7, lines 42-45), and (iv) a hydrophobic organic oil, for example a liquid polyisobutene (col.8, lines 27-30).

Creutz et al does not explicitly teach a foam control composition comprising a liquid polyisobutene having a molecular weight in the range 200 to 1500 of the instant claim.

Hart teaches the use of low molecular weight polyisobutylenes to inhibit foam during crude oil processing (col.1, lines 5-10). Hart further teaches that because of their viscosities, lower molecular weight polyisobutylenes are easier to handle and do not require pretreatment steps such as heating and dilution in solvent (col.2, line 61-col.3,

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line 4); these are advantages of low molecular weight polyisobutylenes over high molecular weight polyisobutylenes.

Hart further teaches polyisobutylenes having molecular weights ranging from about 224 daltons to about 504 daltons, with a preferred polyisobutylene having an average molecular weight of 320 (col.2, lines 32-34).

Since Creutz et al does not teach a particular molecular weight range for the liquid polyisobutene of the invention, one of ordinary skill in the art would have used any conventional liquid polyisobutene in the composition of Creutz et al; moreover, motivated by the advantages of low molecular weight polyisobutylenes over high molecular weight polyisobutylene as taught by Hart, one of ordinary skill in the art would have used any liquid polyisobutene with a molecular weight within the range taught by Hart, including a liquid polyisobutene with the preferred molecular weight of Hart, in the composition of Creutz et al. The selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness determination. Polyisobutylene and polyisobutene are synonyms.

Regarding **claim 2**, the liquid polyisobutene of modified Creutz et al meets this limitation.

Regarding **claim 3**, modified Creutz et al further teaches that the number ratio of the M groups to Q groups of the organosilicon resin is more preferably 0.4:1 to 1.1:1 (col.7, lines 60-66).

Regarding **claim 4**, modified Creutz et al further teaches that the silica filler may for example have an average particle size of 0.5 to 50 μm (col.7, lines 23-26) and exemplifies Sipernat D 10 (col.7, line 35 and col.10, lines 35-36). Sipernat D10 has an average mean particle size of 4.5 μm .

Regarding **claim 6**, modified Creutz et al further teaches the composition comprising a polydiorganosiloxane fluid (abstract), and that the preferred polydiorganosiloxane fluid can for example be a polysiloxane comprising at least 10% diorganosiloxane units of the formula of col.3, line 20 and up to 90% diorganosiloxane units of the formula of col.3, line 30 (col. 3, lines 15-60).

Regarding **claim 7**, modified Creutz et al further teaches that the composition may optionally contain a surfactant (col.9, lines 53-55).

Regarding **claim 11**, Creutz et al teaches providing a foam control agent as a water-dispersible composition by dispersing the foam control agent in a water-dispersible vehicle (col.9, line 65-col.10, line 7); said foam control agent being a foam control composition comprising: (i) a non-polar component which is preferably a polyol ester, most preferably a polyol substantially fully esterified by carboxylate groups each having 7 to 36 carbon atoms; the polyol ester is preferably a glycerol triester or an ester of a higher polyol such as pentaerythritol or sorbitol, but can be a diester of a glycol such as

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ethylene glycol. Examples of the polyol ester includes glycerol tristearate (col.4, line 57-col.5, line 17); (ii) hydrophobic filler, with silica which is made hydrophobic being a preferred filler (col.7, lines 1-5), (iii) an organosilicon resin, which is generally a non-linear siloxane resin, which preferably consists of M groups and Q groups (col.7, lines 42-45), and (iv) a hydrophobic organic oil, for example a liquid polyisobutene (col.8, lines 27-30).

Creutz et al does not explicitly teach a method of manufacturing a water-dispersible foam control composition comprising dispersing in a water carrier a foam control composition comprising a liquid polyisobutene having a molecular weight in the range 200 to 1500 of the instant claim.

Hart teaches the use of low molecular weight polyisobutylenes to inhibit foam during crude oil processing (col.1, lines 5-10). Hart further teaches that because of their viscosities, lower molecular weight polyisobutylenes are easier to handle and do not require pretreatment steps such as heating and dilution in solvent (col.2, line 61-col.3, line 4); these are advantages of low molecular weight polyisobutylenes over high molecular weight polyisobutylenes.

Hart further teaches polyisobutylenes having molecular weights ranging from about 224 daltons to about 504 daltons, with a preferred polyisobutylene having an average molecular weight of 320 (col.2, lines 32-34).

Since Creutz et al does not teach a particular molecular weight range for the liquid polyisobutene of the invention, one of ordinary skill in the art would have used any conventional liquid polyisobutene in the composition of Creutz et al; moreover,

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motivated by the advantages of low molecular weight polyisobutylenes over high molecular weight polyisobutylene as taught by Hart, one of ordinary skill in the art would have used any liquid polyisobutene with a molecular weight within the range taught by Hart, including a liquid polyisobutene with the preferred molecular weight of Hart, in the composition of Creutz et al. The selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness determination. Polyisobutylene and polyisobutene are synonyms.

Regarding **claim 12**, Creutz et al teaches supporting a foam control composition on a particulate carrier by depositing the mixture of the foam control composition on the carrier (col.8, line 51-col.9, line 10); said foam control composition comprises: (i) a non - polar component which is preferably a polyol ester, most preferably a polyol substantially fully esterified by carboxylate groups each having 7 to 36 carbon atoms; the polyol ester is preferably a glycerol triester or an ester of a higher polyol such as pentaerythritol or sorbitol, but can be a diester of a glycol such as ethylene glycol. Examples of the polyol ester includes glycerol tristearate (col.4, line 57-col.5, line 17); (ii) hydrophobic filler, with silica which is made hydrophobic being a preferred filler (col.7, lines 1-5), (iii) an organosilicon resin, which is generally a non-linear siloxane resin, which preferably consists of M groups and Q groups (col.7, lines 42-45), and (iv) a hydrophobic organic oil, for example a liquid polyisobutene (col.8, lines 27-30).

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The particulate supported foam control composition of Creutz et al serves as the granulated foam control agent of the instant claim.

Creutz et al does not explicitly teach a method of manufacturing a granulated foam control agent comprising depositing onto a particulate carrier a foam control composition comprising a liquid polyisobutene having a molecular weight in the range 200 to 1500 of the instant claim.

Hart teaches the use of low molecular weight polyisobutylenes to inhibit foam during crude oil processing (col.1, lines 5-10). Hart further teaches that because of their viscosities, lower molecular weight polyisobutylenes are easier to handle and do not require pretreatment steps such as heating and dilution in solvent (col.2, line 61-col.3, line 4); these are advantages of low molecular weight polyisobutylenes over high molecular weight polyisobutylenes.

Hart further teaches polyisobutylenes having molecular weights ranging from about 224 daltons to about 504 daltons, with a preferred polyisobutylene having an average molecular weight of 320 (col.2, lines 32-34).

Since Creutz et al does not teach a particular molecular weight range for the liquid polyisobutene of the invention, one of ordinary skill in the art would have used any conventional liquid polyisobutene in the composition of Creutz et al; moreover, motivated by the advantages of low molecular weight polyisobutylenes over high molecular weight polyisobutylene as taught by Hart, one of ordinary skill in the art would have used any liquid polyisobutene with a molecular weight within the range taught by Hart, including a liquid polyisobutene with the preferred molecular weight of

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Hart, in the composition of Creutz et al. The selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness determination.

Polyisobutylene and polyisobutene are synonyms.

Regarding **claim 13**, modified Creutz et al further teaches that the supported foam control composition may additionally include a water-soluble or water-dispersible binder (col.9, lines 27-30).

Regarding **claims 14 and 15**, the exemplified glycerol tristearate of modified Creutz et al meets the claim limitations.

Regarding **claims 16 and 17**, modified Creutz et al further teaches examples of the polyol esters of the invention to include pentaerythritol tetrabehenate (col.5, lines 3-4).

The pentaerythritol tetrabehenate of modified Creutz et al meets the claim limitations.

Regarding **claim 18**, modified Creutz et al further teaches that the non-polar component of the invention can comprise two or more materials, for example, glyceryl tristearate and glyceryl tripalmitate (col.5, lines 25-30).

Regarding **claim 19**, modified Creutz et al further teaches the composition of the invention comprising a component which is more polar than the non-polar component

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(abstract); said more polar component contains groups examples of which include unesterified COOH groups, amide groups or amino groups (col.5, lines 33-45).

Regarding **claims 20 and 21**, modified Creutz et al further teaches examples of the more polar component to include glycerol monostearate (col.5, line 46-col.6, line 35).

9. **Claims 1-7, 14-17 and 19-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over **L'Hostis et al (EP 1075863)** in view of **Hart (US 5,800,738)** in further view of **Wollenweber et al (US 5,807,502)**.

Regarding **claim 1**, L'Hostis et al teaches a foam control agent comprising: (B) a water-insoluble organic fluid, (C) an organosilicon resin, and (D) a hydrophobic filler (abstract). L'Hostis et al further teaches that the organic fluid (B) is preferably liquid at 25°C and preferred organic liquid includes liquid polyisobutene [0017].

L'Hostis et al does not teach a foam control composition comprising a liquid polyisobutene having a molecular weight in the range 200 to 1500.

Hart teaches the use of low molecular weight polyisobutylenes to inhibit foam during crude oil processing (col.1, lines 5-10). Hart further teaches that because of their viscosities, lower molecular weight polyisobutylenes are easier to handle and do not require pretreatment steps such as heating and dilution in solvent (col.2, line 61-col.3, line 4); these are advantages of low molecular weight polyisobutylenes over high molecular weight polyisobutylenes.

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Hart further teaches polyisobutylenes having molecular weights ranging from about 224 daltons to about 504 daltons, with a preferred polyisobutylene having an average molecular weight of 320 (col.2, lines 32-34).

Since L'Hostis et al does not teach a particular molecular weight range for the liquid polyisobutene of the invention, one of ordinary skill in the art would have used any conventional liquid polyisobutene in the composition of L'Hostis et al; moreover, motivated by the advantages of low molecular weight polyisobutylenes over high molecular weight polyisobutylene as taught by Hart, one of ordinary skill in the art would have used any liquid polyisobutene with a molecular weight within the range taught by Hart, including a liquid polyisobutene with the preferred molecular weight of Hart, in the composition of L'Hostis et al. The selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness determination. Polyisobutylene and polyisobutene are synonyms.

Though modified L'Hostis et al does not teach a foam control composition comprising a non-polar organic polyol ester of the instant claim, modified L'Hostis et al further teaches that the foam control agent may be employed in such processes as paper making [0045].

Wollenweber et al teaches an aqueous fatty alcohol dispersion containing: (a) fatty alcohol (b) anion interfacially active compounds (c) nonionic interfacially active compounds (d) water (abstract). Wollenweber et al further teaches the aqueous fatty alcohol dispersion containing natural and/or synthetic waxes, examples of which includes glycerol tristearate, glycerol tribehenate and pentaerythritol tetrastearate (col.4,

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line 59-col.5, line 10). Wollenweber et al further teaches that the aqueous fatty alcohol dispersion of the invention are easy to dose and remain stable in storage; they show extremely high stability in storage, even with relatively high natural fatty alcohol contents, and retain it even at temperatures below 15°C (col.5, line 65-col.6, line 5).

Wollenweber et al further teaches that the aqueous fatty alcohol dispersion of the invention is used as antifoam agent, preferably in the paper industry among other applications (col.1, lines 8-10).

Since both compositions of modified L'Hostis et al and Wollenweber et al are useful for foam control in the paper industry, and since L'Hostis et al further teaches that it may be appropriate to provide the foam control agent in an emulsion form, preferably an oil-in-water [0032], motivated by the advantages taught by Wollenweber et al, one of ordinary skill in the art would have incorporated the aqueous fatty alcohol dispersion of Wollenweber et al, into the antifoam control composition of L'Hostis et al in order to incorporate the advantageous properties of the aqueous fatty alcohol dispersion of Wollenweber et al into the foam control composition of L'Hostis et al; it is *prima facie* obvious to combine two compositions, each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose; the idea of combining them flows logically from their having been individually taught in the prior art. Furthermore, since the list of specifically mentioned natural waxes of Wollenweber is limited, one of ordinary skill in the art would have formed various combinations of the composition of modified L'Hostis et al, including

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those with glycerol tristearate, and/or pentaerythritol tetrastearate by routine experimentation with an expectation of success.

Since the glycerol tristearate, and pentaerythritol tetrastearate of modified L'Hostis are taught as waxes, then they are non-polar. The glycerol tristearate of modified L'Hostis et al meets the limitations of the glycerol triester of the instant claim. The glycerol pentaerythritol tetrastearate of modified L'Hostis et al meets the limitation of the ester of pentaerythritol of the instant claim.

Regarding **claim 2**, the liquid polyisobutene of modified L'Hostis et al falls within the claimed range.

Regarding **claim 3**, modified L'Hostis et al further teaches that the organosilicon resin (C) preferably consists of monovalent trihydrocarbonsiloxy (M) groups of the formula $R''_3SiO_{1/2}$ and tetrafunctional (Q) groups $SiO_{4/2}$, the number ratio of M groups to Q groups is preferably 0.4:1 to 1.1:1 [0019].

Regarding **claim 4**, modified L'Hostis et al further teaches that a preferred filler (D) is silica [0028]; the silica filler has an average size of 0.5 to 50 μm [0029] and exemplifies Sipernat D10 . Sipernat D10 has an average mean particle size of 4.5 μm .

Regarding **claims 5 and 6**, modified L'Hostis et al further teaches the foam control agent comprising: (A) an organopolysiloxane material having at least one silicon bonded

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substituent of the formula X-Ph (abstract); modified L'Hostis et al further teaches that said organopolysiloxane material is preferably a fluid and is preferably a polydiorganosiloxane. Modified L'Hostis et al further teaches that the diorganosiloxane units containing a X-Ph group may comprise substantially all or a majority of the diorganosiloxane units in (A), but preferably comprise up to 50% of the diorganosiloxane units in (A), and that the polydiorganosiloxane (A) also preferably comprises at least 50% diorganosiloxane units of the formula of [0012], wherein the group X is preferably a divalent alkylene group, Ph is preferably a moiety containing at least one aromatic ring -C₆R₅, Y is an alkyl group having 1 to carbon atoms and Y' is an aliphatic hydrocarbon group having 1 to 24 carbon atoms. [0011-0012].

For claim 5, Modified L'Hostis et al further teaches that the weight ratio of organopolysiloxane material (A) to fluid (B) in the composition of the invention can for example be 90/10 to 10/90. The composition of L'Hostis et al with a weight ratio of (A) to (B) of 10/90 is substantially free of the organopolysiloxane material (A).

For claim 6, though modified L'Hostis et al does not teach the foam control composition wherein the composition comprises 10 to 100% by weight based on the liquid hydrocarbon polymer of a polysiloxane fluid comprising at least 10% diorganosiloxane units of the formula YY'(Si-O) and up to 90% diorganosiloxane units of the formula YX-Ph(Si-O) of the instant claim, it has been established that in the case where the claimed ranges overlap or lie inside ranges disclosed by the prior art a *prima facie* case of obviousness exists.

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Regarding **claim 7**, modified L'Hostis et al further teaches that it may be appropriate to provide the foam control agent in an emulsion form [0032]; said emulsion in general comprise the foam control agent as the disperse phase and one or more surfactants, among other components [0034].

Regarding **claims 14 and 15**, the glycerol stearate of the composition of modified L'Hostis et al meets the claim limitations.

Regarding **claims 16 and 17**, the pentaerythritol tetrastearate of modified L'Hostis et al meets the claim limitations.

Regarding **claims 19 and 20**, modified L'Hostis et al further teaches that the composition of the invention comprising typical additives such as fatty acids (see Wollenweber et al, col.5, lines 44-46) and further teaches the fatty acids of the invention as C₁₄-C₂₈ fatty acids (see Wollenweber et al, col.4, lines 65-67).

Though modified L'Hostis et al does not teach fatty acids having 8 to 36 carbon atoms of the invention, it has been established that in the case where the claimed ranges overlap or lie inside ranges disclosed by the prior art a *prima facie* case of obviousness exists.

Regarding **claim 21**, though modified L'Hostis et al does not explicitly teach the foam control composition wherein the component which contains groups more polar than the

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groups present in the non-polar organic polyol ester having melting point of 35 to 100°C is selected from the group of the instant claim, since L'Hostis et al further teaches examples of fatty alcohols, and esters and amides of fatty acids (which are derivatives of fatty acids) to include stearyl sterate, glycerol tristearate and ethylene bis-stearamide respectively (col.5, lines 5-10) and that the additives, which includes fatty acids, are added without impairing the effect of the composition of the invention (col.5, lines 44-47), for compatibility reasons, it would have been obvious to one of ordinary skill in the art to have selected any of the acids, including stearic acid, from which the fatty acid derivatives of the invention are formed, as the fatty acid of the composition of the invention with an expectation of success; The selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness determination.

Response to Arguments

10. Applicant's arguments with respect to claims 1-7 and 11-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLATUNDE S. OJURONGBE whose telephone number is (571)270-3876. The examiner can normally be reached on Monday-Thursday, 7.15am-4.45pm, EST time, Alt Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571)272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

O.S.O.

/Margaret G. Moore/
Primary Examiner, Art Unit 1796

mgm
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